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10/730,364	12/08/2003	Michael T. Morman	KCX-654B (19124B)	2821

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EXAMINER

CRAIG, PAULA L

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/730,364

Applicant(s)

MORMAN ET AL.

Examiner

Paula L. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 10-12, 15, 20-24 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13, 14, 16-19 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/28/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The objections to Claims 13-14; the rejections of Claims 1-9, 13-14, 16-19, and 25 under 35 USC 112, second paragraph; and the rejections of Claims 1 and 25 on the grounds of nonstatutory double patenting have been withdrawn. Applicant's arguments with respect to claims 1-9, 13-14, 16-19, and 25 have been considered but are moot in view of the new grounds of rejection.

Election/Restrictions

2. As indicated in the prior Office Action mailed July 19, 2006, Claims 10-12, 15, 20-24, and 26-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-9 and 25 are rejected under 35 U.S.C. 102(a)^(e) as being anticipated by U.S. Patent No. 6,552,245 to Roessler et al.

6. For Claims 1 and 25, Roessler '245 teaches an absorbent article including a chassis having a front waist region, a back waist region, and a crotch region extending between the front and back waist regions (Figs. 1-8, col. 1, lines 6-10, col. 2, lines 57-63, col. 4, lines 58-66). An outer cover member extends longitudinally between the front and back waist regions, a bodyside liner extends longitudinally between the front and back waist regions, and an absorbent body structure is sandwiched between the outer cover member and the bodyside liner (outer cover 30, bodyside liner 32, absorbent body 34, Figs. 1-8, Abstract, col. 5, lines 5-25). The bodyside liner includes a material having an untensioned inherently extensible base layer of a fluid permeable material, the base layer extendable to at least about 125 % of its original dimension in a first direction essentially without fracture of the base layer material (col. 4, lines 28-49, col. 16, line 43 to col. 18, line 39). Roessler teaches at least a first and a second strip of elastomeric material wholly disposed on and attached to the base layer material to form flat planar composite regions with a space between the strips such that a center untensioned region of the base layer material is bordered on at least two longitudinally extending sides by the composite regions of the elastomeric materials and the base layer material, the center region generally disposed over the absorbent body structure, the center region of untensioned base layer material being attached to the absorbent body structure in its untensioned condition and the composite regions being stretchable in at least a second direction of the absorbent article (first and second strips of

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elastomeric material are leg elastics 36; side panels 42 are also elastomeric strips; Figs. 1-2 and 5-8, col. 5, lines 26-53, col. 7, lines 6-16, col. 14, lines 1-50, col. 16, line 43 to col. 18, line 64, col. 20, line 66 to col. 21, line 64, col. 22, lines 6-52, col. 23, line 61 to col. 24, line 47; note leg elastics 36 are stated to be sheets; leg elastics 36 extend in the lateral direction as well as the longitudinal direction and are stretchable in both directions; Figs. 1-2 teach attachment of the leg elastics between the bodyside liner 32 and the outer cover 30; note that Applicant's specification defined "attached" as including indirect attachment, specification, page 8, lines 11-16).

7. For Claim 2, Roessler '245 teaches the article being a training pant, disposable diaper, incontinence article, or feminine hygiene article (col. 3, lines 61-64).

8. For Claim 3, Roessler '245 teaches the base layer material defining a pair of opposed lateral side edges, and each of the first and second elastomeric strips defining a lateral side edge that is aligned with one of the lateral edges of the base layer material (Figs. 1-2, col. 5, lines 27-53, col. 23, line 61 to col. 24, line 47).

9. For Claim 4, Roessler '245 teaches the base layer material including a non-woven material (col. 16, line 43, to col. 18, line 8).

10. For Claim 5, Roessler '245 teaches a bicomponent spunbond material (col. 16, line 43, to col. 17, line 43).

11. For Claim 6, Roessler '245 teaches the first and second elastomeric materials including an elastic film, the films being laminated to the base layer material (col. 21, lines 1-48).

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12. For Claim 7, Roessler '245 teaches the first and second elastomeric materials including webs of elastomeric fibers (col. 21, lines 1-49).

13. For Claims 8 and 9, Roessler '245 teaches the elastomeric materials being attached to the base layer material in either a generally untensioned state or a generally tensioned state (col. 5, lines 43-53).

Claim Rejections - 35 USC § 103

14. Claims 13-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler '245 in view of Buell (U.S. Patent No. 4,900,317).

15. For Claim 13, Roessler '245 teaches all the limitations of Claim 1, as described above in paragraph 6. Roessler '245 teaches the outer cover member and the composite regions of the bodyside liner both being extensible, and being formed of similar elastomeric materials (col. 7, line 17 to col. 8, line 56, col. 13, line 45 to col. 18, line 54). Roessler does not expressly teach the composite regions being folded at a side fold line of the chassis, extending laterally back under the absorbent body structure, and being attached to each other such that the composite regions also define the outer cover member of the chassis. However, this feature is well known in the art. Buell '317 confirms this and teaches elasticized composite strips being folded at a side fold line of the chassis, extending laterally back under the absorbent body structure, and being attached to each other such that the composite regions also define the outer cover member of the chassis (Figs. 1 and 3-7 and Abstract). Buell teaches that the diapers of his invention allow air flow, but contain body fluids and are cooler and self-

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dried to a greater extent than other diapers (col. 9, line 3, to col. 10, line 5, and col. 17, lines 30-36). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to modify Roessler '245 to include the composite regions being folded at a side fold line of the chassis, extending laterally back under the absorbent body structure, and being attached to each other such that the composite regions also define the outer cover member of the chassis, as taught by Buell, to contain body fluids while allowing air flow and self-drying, as taught by Buell.

16. For Claim 14, Roessler '245 teaches leg elastics (leg elastic members 36, col. 20, line 66 to col. 21, line 52). Roessler '245 does not expressly teach leg elastics between the folded composite regions. Buell teaches leg elastics between folded composite regions (elastic elements 31 and 64, Figs. 3-7; col. 7, line 52 to col. 8, line 32, and col. 13, lines 17-43). It would have been obvious to modify Roessler '245 to include leg elastics between folded composite regions, for the same reasons as described above for Claim 13 in paragraph 15.

17. For Claim 16, Roessler '245 teaches portions of the composite regions of the bodyside liner being folded outboard of the absorbent body structure so as to define longitudinally extending containment flaps on opposite lateral sides of the absorbent body structure (containment flaps 46, Fig. 2 and col. 6, lines 27-52).

18. For Claim 17, Roessler '245 teaches the composite regions being attached to the absorbent body structure (col. 7, lines 6-16).

19. For Claim 18, Roessler '245 teaches the composite regions of the bodyside liner defining longitudinal strips extending outwardly from the center region and defining

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elastomeric side panels that are attached at side seams of the chassis to define a pant-like structure (side panels 42, Figs. 1-2, col. 3, lines 61-66, col. 23, line 61 to col. 24, line 47). Roessler does not teach the composite strips being folded outboard of the side panels at fold lines and extending laterally back under the absorbent body structure and attached to each other such that the composite regions also define the outer cover member of the chassis. This feature is taught by Buell '317, as indicated above for Claim 13 in paragraph 15. It would have been obvious to modify Roessler to include this feature, for the same reasons as described above for Claim 13 in paragraph 15.

20. For Claim 19, Roessler '245 teaches the article being a child's training pant (col. 3, lines 61-63).

Conclusion

21. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on 8:30AM-4:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

